

**To:** R7 Daily Digest Group[R7\_Daily\_Digest\_Group@epa.gov]  
**From:** Washburn, Ben  
**Sent:** Wed 11/26/2014 10:31:43 PM  
**Subject:** OPA Daily Digest 11/26/14

## **OPA Daily Digest for 11/26/14**

### **Congressional Inquiries:**

None

### **State Government Inquiries:**

None

### **Press Inquiries:**

**Wall Street Journal** – John Emshwiller – 10/31/14: Questions regarding West Lake site in Bridgeton, Mo. Contact: Ben Washburn, 7364 (open)

**KSN-TV (Wichita)** – Darren Dedo – 11/17/14: Requesting status updates and interviews for Wichita Superfund sites. Contact: Ben Washburn, 7364 (open)

**St. Louis Post-Dispatch - Jacob Barker** – 11/21/14: Requesting interview about West Lake Landfill. Contact: Ben Washburn, 7364 (open)

**Iowa City Press Citizen - Paul Deaton** – 11/25/14: Questions regarding Iowa City food recovery program and food waste programs. Contact: Jim Callier, 7433 (closed)

## **Environmental Stories:**

**CNN Money - Op/Ed Gina McCarthy - U.S. EPA: We need tougher ozone standards -**  
11/26/14 - Time after time, when science pointed to health risks, special interests cried the sky was falling. And time after time, EPA obeyed the law, followed the science, protected public health, and fortified a strong American economy. Over four decades, we've cut air pollution by nearly 70%, while our economy has tripled in size. The sky never fell. Today's action follows that proven path. <http://money.cnn.com/2014/11/26/news/economy/epa-stronger-ozone-standard/>

**St. Louis Post-Dispatch - Proposed lower ozone standards draw criticism from Blunt, business -** 11/26/14 - Sen. Roy Blunt, R-Mo., said Wednesday these new ozone proposals, which are subject to a 90-day public comment period, "could be the most expensive regulation ever." He said that "the last thing workers and families in Missouri need is yet another burdensome regulation that will further stifle jobs and economic opportunity."  
[http://www.stltoday.com/news/local/govt-and-politics/gateway-to-dc/proposed-lower-ozone-standards-draw-criticism-from-blunt-business/article\\_3c11728e-a3ba-5195-aa87-caaf90e495ca.html](http://www.stltoday.com/news/local/govt-and-politics/gateway-to-dc/proposed-lower-ozone-standards-draw-criticism-from-blunt-business/article_3c11728e-a3ba-5195-aa87-caaf90e495ca.html)

**Des Moines Register - Iowa counties expected to meet new smog standards by 2025 -**  
11/26/14 - All of Iowa's 99 counties are expected to meet new proposed standards for the amount of smog in the air by 2025, according to the federal government.  
<http://www.desmoinesregister.com/story/money/business/2014/11/26/epa-ozone-smog-proposal-iowa-counties/19539559/>

**Hillsboro Free Press - Hillsboro selected for EPA climate-change project -** 11/25/14 - The Environmental Protection Agency announced last week that the city of Hillsboro is among a handful of cities that will receive training and technical assistance to help water utilities bolster their climate-change resilience and readiness. <https://www.hillsborofreepress.com/news/hillsboro-selected-for-epa-climate-change-project>

**Christian Science Monitor - Smog check: EPA proposes tougher regs for ground-level ozone pollution -** 11/26/14 - Environmental and health advocates welcome a lower level for ozone found in smog. Industry officials say it would mean 'enormous costs' for the US economy

and consumers. <http://www.csmonitor.com/Environment/2014/1126/Smog-check-EPA-proposes-tougher-regs-for-ground-level-ozone-pollution>

**House Energy & Commerce Committee - Committee Leaders Respond to EPA's Ozone Proposal** - 11/26/14 - House Energy and Commerce Committee leaders today responded to the Environmental Protection Agency's proposed changes to the National Ambient Air Quality Standards (NAAQS) for ground-level ozone, costly new regulatory requirements that would have consequences across the U.S. economy. <http://energycommerce.house.gov/press-release/committee-leaders-respond-epa-ozone-proposal>

**Clean Air Watch - Quick Reaction to EPA's Ozone Proposal** - 11/26/14 - Here are a few quick thoughts: All in all, this is a very positive step in the right direction even though it doesn't go as far as health and environmental groups would like. <http://www.cleanairwatch.org/2014/11/quick-reaction-to-epas-ozone-proposal.html>

**Center for Public Reform (blog) - EPA's Long-Delayed Ozone Proposal** - 11/26/14 - How much is it worth to save the life of a grandfather with lung disease or to keep an asthmatic child out of the hospital? The ozone rule, which EPA proposes today after years of politically motivated delay and while staring down the barrel of a court order, responds to the urgent calls of a gold-standard panel of scientists. <http://www.progressivereform.org/CPRBlog.cfm?idBlog=EC9F343A-B095-A82A-3094220FBB603EAD>

**Pro Publica - Gov't Data Sharpens Focus on Crude-Oil Train Routes** - 11/25/14 - A ProPublica analysis of federal government data adds new details to what's known about the routes taken by trains carrying crude oil. Local governments are often unaware of the potential dangers they face. <http://www.propublica.org/article/govt-data-sharpens-focus-on-crude-oil-train-routes>

**New York Times - Supreme Court to Hear Challenge to Rules on Mercury From Power Plants** - 11/25/14 - The Supreme Court agreed Tuesday to hear a major challenge to the limits set by the Obama administration on emissions of mercury and other toxic pollutants from coal-fired power plants. <http://www.nytimes.com/2014/11/26/us/politics/supreme-court-to-hear-case-on-costs-of-clean-air-act.html>

**Domestic Fuel - Biodiesel By-Product Gets Into Sticky Situation** - 11/26/14 - A by-product of biodiesel production is getting into a sticky situation... but in a good way. This story from Iowa State University says researchers at the school are turning glycerin into a commercially viable bioplastic adhesive. <http://domesticfuel.com/2014/11/26/biodiesel-by-product-gets-into-sticky-situation/>

**The Hill - EPA pushes to cut smog in new anti-ozone rule** - 11/26/14 - The Obama administration unveiled an ambitious plan Wednesday that it said would improve public health by slashing the ozone pollution that causes smog. <http://thehill.com/policy/energy-environment/225371-epa-pushes-to-cut-smog-in-new-rule>

**The Hill - Oil industry to EPA: Don't move goalposts with ozone rule** - 11/25/14 - The main lobbying group for the oil industry is arguing that the Environmental Protection Agency (EPA) should let the country catch up to the last ozone standards before setting new ones. <http://thehill.com/policy/energy-environment/225295-oil-industry-to-epa-dont-move-goalposts-with-ozone-rule>

**Bloomberg - EPA Proposes Tougher Smog Standard Business Decries as Costliest** - 11/26/14 - The Obama administration proposed tougher limits on smog-producing ozone, standards that would have wide-ranging implications for auto fuels, coal plants and childhood asthma for decades to come. <http://www.bloomberg.com/news/2014-11-26/epa-proposes-tougher-smog-standard-business-decries-as-costliest.html>

**Union of Concerned Scientists - A Science-Based Ozone Standard At Last? The Obama Administration Releases Long-Awaited Draft Rules** - 11/26/14 - The regulation of ozone pollution has had a complicated history in recent years, but today marks a potential turning point toward an ozone standard that protects public health. <http://blog.ucsusa.org/obama-epa-ozone-rule-740>

**Washington Times - EPA formally proposes new smog and ozone standards** - 11/26/14 - The Environmental Protection Agency proposed new ozone regulations Wednesday aimed at drastically cutting smog pollution from power plants and factories. But Republicans and manufacturers criticize the move as an example of the Environmental Protection Agency's overreach under the Obama Administration. <http://www.washingtontimes.com/news/2014/nov/25/obama-issue-new-ozone-regulations/>

**American Lung Association (release) - Lung Association Welcomes Obama**

**Administration's Long Overdue Ozone Pollution Proposal Calls for Greater Protection -**

11/26/14 - Today's proposal by the Obama Administration to strengthen the National Ambient Air Quality Standards for ozone would provide greater protection to millions of Americans from the nation's most pervasive air pollutant – a step that is long overdue. We are concerned that EPA did not include 60 ppb in the range. [https://www.einnews.com/pr\\_news/236672794/lung-association-welcomes-obama-administration-s-long-overdue-ozone-pollution-proposal-calls-for-greater-protection](https://www.einnews.com/pr_news/236672794/lung-association-welcomes-obama-administration-s-long-overdue-ozone-pollution-proposal-calls-for-greater-protection)

**American Fuel & Petrochemical Manufacturers – EPA's Ozone NAAQS All Pain and No**

**Gain** - 11/26/14 - The Environmental Protection Agency's ozone proposal is just the latest in the Obama Administration's arsenal of restrictive rules that will undermine the U.S. economy in the President's pursuit of his desired green legacy. <http://www.globenewswire.com/news-release/2014/11/26/686583/10110123/en/EPA-s-Ozone-NAAQS-All-Pain-and-No-Gain.html>

**Washington Examiner - EPA proposes tighter ozone standard** - 11/26/14 - After years of delays and intense lobbying, the Environmental Protection Agency proposed tightening the amount of ozone pollution allowed in the air, a move that's sure to incite political attacks from industry groups and Capitol Hill conservatives. <http://www.washingtonexaminer.com/epa-proposes-tighter-ozone-standard/article/2556679>

**Wall Street Journal - EPA Proposes Stricter Ozone Air Pollution Standard | Proposal Expected to Reanimate Battle Between Businesses and Environmental Groups** - 11/26/14 -

The U.S. Environmental Protection Agency on Wednesday proposed lower limits for ground-level ozone, or smog, in the atmosphere, setting in motion the latest in a series of far reaching federal pollution restrictions. <http://online.wsj.com/articles/epa-proposes-stricter-ozone-standard-1417012097>

**Politico - 'The most expensive regulation ever'** - 11/25/14 - The Obama administration proposed a draft air pollution rule on Wednesday that business groups charge would be the costliest regulation of all time — setting up a test of how hard the president will fight for his environmental agenda against a newly strengthened GOP.

<http://www.politico.com/story/2014/11/epa-ozone-standard-113183.html>

**National Journal - With Proposed New Ozone Rule, Obama Tees Up Next Environmental Fight** - 11/26/14 - EPA is proposing to lower the smog standard, and environmentalists are determined to make it happen this time. <http://www.nationaljournal.com/energy/with-proposed-new-ozone-standard-obama-tees-up-next-environmental-fight-20141125>

**American Thinker - New ozone regs would cost industry billions with very little public health benefit** - 11/26/14 - The Obama administration is set to release new proposed regulations that would drastically cut back on the amount of ozone released by industry. The new rules will be issued under the authority granted by the Clean Air Act. [http://www.americanthinker.com/blog/2014/11/new\\_ozone\\_regs\\_would\\_cost\\_industry\\_billions\\_with\\_very\\_little](http://www.americanthinker.com/blog/2014/11/new_ozone_regs_would_cost_industry_billions_with_very_little)

**Wall Street Journal - Supreme Court to Review EPA Rule on Power Plant Emissions** - 11/25/14 - The U.S. Supreme Court on Tuesday said it would review the nation's first-ever standards requiring power plants to reduce mercury emissions and other toxic air pollutants, taking up a case with implications for President Barack Obama's broader environmental agenda. <http://online.wsj.com/articles/supreme-court-to-review-epa-rule-on-power-plant-emissions-1416942022>

**National Journal - Is This Congressman Trying to Name a Climate Denial Theory After Himself?** - 11/25/14 - And in his last days in office, Texas Republican Steve Stockman appears to be trying to cement his legacy by naming a scientific theory charging climate change is natural after himself. <http://www.nationaljournal.com/energy/is-this-congressman-trying-to-name-a-climate-denial-theory-after-himself-20141124>

#### **Press Releases:**

Link to all R7 press releases: <http://go.usa.gov/Qx5>

**EPA propone normas de smog para salvaguardar a los estadounidenses de la contaminación atmosférica** – 11/26/14 – Contact: Ben Washburn, 7364

#### **Fact Sheets:**

Link to all R7 fact sheets: <http://www.epa.gov/region7/factsheets>

None

**Upcoming Administrator/RA Events:**

\* New additions noted with an asterisk

**12/2-3/14** – Attend the Four State Director’s Meeting, Regional Office. Contact: Dick Sumpter, 7661

**\*12/4/14** – Strong Cities, Strong Communities (SC2) St. Louis Project Brownbag, Regional Office. Contact: Monica Espinosa, 7541

**12/15-16/14** – Joint Region 7 & Region 8 Ag Meeting, Denver, Colo. Contact: Damon Frizzell, 7560

**DRA:**

**12/2-3/14** – Attend the Four State Director’s Meeting, Regional Office. Contact: Dick Sumpter, 7661

**RA/Immediate Office**

None

**Other Events**

**AWMD**

None

**CNSL**

None

**ECO/EJ**

None

**ENSV**

None

**PLMG**

**12/02/14** - Federal Executive Board & Chamber of Commerce Small Business Networking Event, Kansas City, MO. Contact: Chester Stovall, x7549

**12/09/14** – Society of American Military Engineers National Conference, Kansas City, MO. Contact: Chester Stovall, x7549

**RA/OPA**

None

**SUPR**

**12/2/14** – A public availability session for the Beatrice Former Manufactured Gas Plant Site in Beatrice, Neb. Contacts: Pamela Houston, 7699 & Owens Hull, 7226.



## **WWPD**

**12/2-3/14** – Four State Directors’ Meeting, Regional Office. Contact: Karen Flourney, 7782

**12/9/14** – Meeting with Iowa Department of Natural Resources, Des Moines, Iowa. Contact: Karen Flourney, 7782

**12/15-16/14** – Joint Region 7 & Region 8 Ag Meeting, Denver, Colo. Contact: Karen Flourney, 7782

**12/8-12/14** – EPA Water Quality Standards Academy training, Washington, DC. Contact: Pete Davis, 7372

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## **Des Moines Register**

### **Iowa counties expected to meet new smog standards by 2025**

By Matthew Patane

12:58 p.m. CST November 26, 2014

All of Iowa’s 99 counties are expected to meet new proposed standards for the amount of smog in the air by 2025, according to the federal government.

The U.S. Environmental Protection Agency released a proposal Wednesday that would reduce the emission levels for ground-level ozone, more commonly known as smog. That smog is due to emissions from cars, trucks, factories and power plants that “cook” in the air during months with hot weather.

The agency said the lower threshold is intended to boost air quality and reduce the harmful health effects of smog, such as asthma.

“The results of being exposed to too much ozone can be disruptive, expensive, frightening and tragic,” EPA Administrator Gina McCarthy said on a conference call with reporters.

The proposal would lower the threshold for smog to between 65 and 70 parts per billion, down from the current standard of 75 parts per billion. That lower threshold, the EPA said, would prevent between 320,000 and 960,000 asthma attacks.

Meeting that new standard should not be a problem for most of the U.S., including Iowa, McCarthy said Wednesday. Air pollution standards already in place, such as those requiring more efficient cars, have helped reduce ozone levels around the country, she said.

“When it comes to reducing this pollutant, we’ve done it before and we’re on track to do it again,” McCarthy said.

Excluding California, only 58 counties in the U.S. would not meet the new thresholds by 2025, should the proposal become official, according to the EPA. None of them are in Iowa.

While the EPA said its proposal is meant to better air quality, the agency came under fire Wednesday from business groups who said the lower thresholds would hurt the nation’s manufacturing sector.

In a statement, National Association of Manufacturers President Jay Timmons said the draft

regulation “threatens to be the most expensive ever imposed on industry in America.” Timmons also said a lower smog threshold could block businesses from acquiring the permits required to build new factories and other projects.

The EPA’s proposal would also require Iowa officials to monitor for ground-level ozone for an extra month.

Currently, the Iowa Department of Natural Resources has 15 monitoring sites around the state. Monitoring stations include one at Lake Ahquabi State Park in Indianola and the Polk County Health Department in Des Moines.

The department monitors for ozone from April 1 through October of each year, said Jim McGraw, an environmental program supervisor in the department’s air quality bureau.

The EPA rules would extend the monitoring period from March through October. That state pays for the ozone monitoring, McGraw said.

The EPA said it will hold a 90-day public comment period on the proposal and three public hearings. The agency will issue final ozone standards in October 2015.

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**Wall Street Journal**

**EPA Proposes Stricter Ozone Air Pollution Standard**

## Proposal Expected to Reanimate Battle Between Businesses and Environmental Groups

By AMY HARDER

Nov. 26, 2014 9:28 a.m. ET

WASHINGTON—The U.S. Environmental Protection Agency on Wednesday proposed lower limits for ground-level ozone, or smog, in the atmosphere, setting in motion the latest in a series of far reaching federal pollution restrictions.

The EPA proposed limiting ozone between 65 and 70 parts per billion in the air and sought comment on a standard as strict as 60 parts per billion, all which is in line with what an independent scientific advisory panel had recommended earlier this year. The current level, established in 2008 by the George W. Bush administration, is set at 75 parts per billion. The agency also said in a fact sheet on its website that it will take comment on keeping the standard at the level it is at now, a move that could give cautious hope to industry groups that had been lobbying for that.

“Bringing ozone pollution standard in line with the latest science is more than just a legal requirement; it empowers the American people,” EPA Administrator Gina McCarthy said in an op-ed published in CNNMoney, where the agency announced the proposal.

The proposal is expected to reanimate a battle between businesses and environmental groups that has been dormant for three years. In 2011, the EPA estimated that the proposed standard—set then at the toughest level the agency had yet considered—could cost utilities and other businesses as much as \$90 billion a year. President Barack Obama delayed issuing it. It also estimated then that the rule would deliver up to \$100 billion a year in public-health benefits.

The EPA’s estimated costs and benefits for Wednesday’s proposal are significantly less than the 2011 plan. Costs range between \$3 billion and \$15 billion in 2025, and the monetary value of the public health benefits range between \$6.4 billion and \$19 billion annually in 2025. The EPA said the standard would prevent a range of respiratory problems, especially in young children.

Environmental and public health groups have lobbied for a standard set at 60 parts per billion. Industry groups, including the American Petroleum Institute and the National Association of Manufacturers, have urged the administration to not update the standard at all.

The ozone standard, mandated under the Clean Air Act, isn't a direct regulation on business. States, however, must comply, which in turn would compel utilities, factories, refineries and other businesses and municipalities that emit smog-forming pollution—including nitrogen oxides and volatile organic compounds—to install new pollution equipment.

Many regulations the EPA is pursuing under Mr. Obama's direction, including a proposed standard for carbon-dioxide emissions from power plants and a mercury pollution rule facing a review at the Supreme Court, would help states and businesses ultimately meet the ozone standard, Ms. McCarthy said in the op-ed Wednesday.

The part of the Clean Air Act that the EPA uses to issue ozone limits specifically says the agency only can consider science, not cost, a standard supported unanimously by the Supreme Court in 2001.

The agency's ozone proposal is coming a day after the Supreme Court accepted several challenges to a separate EPA regulation cutting mercury pollution from power plants. The high court will decide if the agency should have considered how much the rules would cost utilities, addressing a recurring complaint by companies about government regulations.

The EPA is proposing the ozone standard ahead of a Dec. 1 court deadline compelled by a lawsuit brought by environmental and public-health groups.

According to that timeline, the agency must issue a final standard by October of next year, a timeline the EPA said on its website Wednesday it intends to meet. However, the administration hasn't completed writing the plan for states to comply with the standard set during the Bush administration.

“Tightening these standards could be the most expensive regulation ever imposed on the American public, with potentially enormous costs to the economy, jobs and consumers,” Jack Gerard, president and CEO of the American Petroleum Institute, said in a written statement Wednesday.

Public-health advocates say states and businesses are already beginning to comply with the 2008 standard, and note that they don’t face penalties under the Clean Air Act—including loss of transportation funding—so long as they can show they are trying to meet the limit.

“No community has ever had that happen before,” said Janice Nolen, assistant vice president of national policy at the American Lung Association, one of the groups that have sued to force the EPA to act. “The law doesn’t say you have to meet the standard. You have to be willing to act.”

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**Wall Street Journal**

## **Supreme Court to Review EPA Rule on Power Plant Emissions**

Decision to Review Air Pollution Standards Represents a Setback for Obama Administration

By AMY HARDER and BRENT KENDALL

Nov. 25, 2014 10:05 p.m. ET

WASHINGTON—The U.S. Supreme Court on Tuesday said it would review the nation’s first-ever standards requiring power plants to reduce mercury emissions and other toxic air pollutants, taking up a case with implications for President Barack Obama’s broader environmental agenda.

The high court accepted several challenges to the rules brought by the utility industry and a coalition of nearly two dozen states, including those where utilities rely on coal for most power generation.

The court will hear arguments in the case in the spring and is likely to rule in June 2015, as the Obama administration is planning to put the final touches on a separate proposal to cut carbon-dioxide emissions from existing power plants.

The high court's decision to review one of Mr. Obama's signature environmental achievements comes at a pivotal time. On Wednesday, the Environmental Protection Agency intends to propose an updated national standard for ground-level ozone, commonly known as smog, which is based at least in part on enforcement of the mercury rule.

The high court will decide if the EPA should have considered how much the rules would cost utilities, addressing a recurring complaint by companies about government regulations. The power companies and states said the rules would add \$9.6 billion in annual costs to the utility industry. The EPA should have taken those costs into account, they said.

The EPA has said the public-health benefit of reducing the pollutants amounts to between \$37 billion and \$90 billion a year, far outweighing any industry costs. The agency also has said it believes the rule could prevent up to 11,000 premature deaths each year.

"We are disappointed in the court's decision, but we are confident that EPA acted properly in regulating harmful toxic air pollution from power plants," EPA spokeswoman Liz Purchia said in a written statement.

The outcome of the case could affect other EPA initiatives, including the separate proposed rule cutting carbon emissions from the same set of nearly 600 fossil-fuel power plants, which is underpinned by a 2007 Supreme Court ruling in favor of the EPA. If the court strikes down the entire or significant parts of the mercury rule, it could limit EPA's ability to push forward on other regulations, some energy analysts said.

“Does it make EPA go away? No, but it could make some of their plans a little less ambitious,” said Christine Tezak, a managing director of ClearView Energy Partners, a nonpartisan policy-analysis firm. “The agency’s ability to be aggressive could be constrained by a need to give greater weight to cost impacts.”

The EPA, in an earlier version of the ozone proposal, estimated it could cost up to \$90 billion annually. The EPA also intends in January to issue final rules cutting carbon emissions from new power plants and parallel standards for existing plants next summer. Both also mean increased costs for businesses, though less than the mercury and ozone rules.

The EPA’s mercury rule, adopted in 2012 and scheduled to take effect in April for existing power plants, requires coal and oil-fired plants to cut most of their emissions of mercury, a neurotoxin the EPA says is particularly harmful for children, unborn babies and women of childbearing age.

Power plants are the dominant emitters of mercury in the U.S., according to the EPA. The rules require coal-fired utilities to install so-called scrubber technology, which is widely available, to reduce air emissions. The government has granted many utilities a year extension to comply with the rule.

“The EPA has expressly refused to consider the cost of its regulation, which will result in rate increases for citizens across the country, and threatens the reliability of the electricity grid by forcing the closure of many power plants,” Michigan Attorney General Bill Schuette, a Republican, said in a written statement. Michigan is a lead state plaintiff in the case.

Environmental groups expressed confidence the court would rule in the EPA’s favor. “EPA’s life-saving limits on mercury, arsenic and acid gases from smokestacks are thoroughly anchored in law and science, and we look forward to presenting a compelling case for these vital clean-air safeguards,” said Vickie Patton, general counsel for the Environmental Defense Fund, a party in the case.

The mercury case is the latest in a series of consequential environmental lawsuits that have landed at the Supreme Court during the tenure of Chief Justice John Roberts. The EPA has won



more than it has lost.

The high court, in its 2007 ruling, allowed the agency to regulate carbon dioxide and other gases associated with climate change. This June, the court said the EPA overreached in claiming the authority to impose greenhouse-gas controls on small emitters, but it said the agency could require controls at power plants and other large pollution sources.

In another case this year, the Obama administration scored a notable victory when the justices revived an EPA program that sought to limit power-plant emissions blowing across state lines, called the cross-state air pollution rule.

The administration also won an important court victory in April when a divided U.S. Court of Appeals for the District of Columbia Circuit upheld the mercury rules, saying the agency acted reasonably in crafting them.

The cumulative effect of these regulations, coupled with low natural-gas prices, is compelling some utilities to close coal-fired power plants. Between 2012 and 2020, about 60 gigawatts of coal-fired capacity are projected to shut down, according to U.S. Energy Information Administration data published earlier this year. U.S. utilities have more than 1,000 gigawatts in capacity.

“A lot of utilities weren’t that concerned about the cross-state rule because MATS [the mercury rule] was already requiring them to install scrubbers,” said Brian Potts of Foley & Lardner LLP in Madison, Wis., who represents utilities but doesn’t have any clients involved in the mercury case. “But without MATS (or with a delay in MATS), the cross-state rule could become more significant.”

Akron, Ohio, utility FirstEnergy, which is a plaintiff in the case as part of its membership in the Utility Air Regulatory Group, is currently installing technology to comply with the mercury rule, though the high court’s ruling may change its plans, spokeswoman Jennifer Young said.

The court’s action Tuesday extends a saga that dates back more than two decades. Congress first

required the EPA to issue regulations in 1990, but the agency's efforts had been stalled for years due to several factors, including lengthy court battles and priorities that shifted with presidential administrations.

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